

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1352 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? -
2. To be referred to the Reporter or not? : -
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? -
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge? : NO
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PHILIP THOMAS CHRISTIAN

Versus

ORIENTAL INSURANCE COMPANY LIMITED

Appearance:

MR JV JAPEE for Petitioner

RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 13/07/2000

ORAL JUDGEMENT

This revision application has been preferred against the impugned order dated 6-8-1999 whereby the application of the petitioner for withdrawal of the amount of Rs. 30,000/- out of Rs.50,000/- deposited by the Insurance Co. in Union Bank of India, Himmatnagar in the name of the petitioner has been rejected.

The Tribunal has passed the judgment and award dated 17-10-1997 awarding compensation of Rs. 63,750/- together with 12% p.a. and directed the respondents to deposit Rs.50,000/- with any nationalized Bank for a period of five years by way of fixed deposit and the remaining amount was to be paid by the respondents to the petitioner.

The amount which was directed to be paid in cash to the petitioner has already been paid to the petitioner in the year 1997 and the remaining amount of Rs.50,000/- has already been deposited with Union Bank of India, Himmatnagar for a period of five years by way of fixed deposit and the judgment and award of the Tribunal passed in M.A.C. Petition No. 279/93 has become final as no appeal has been preferred by any of the affecting parties against the said judgment and award dated 17-10-1997.

The petitioner is in great need of Rs.30,000/- for starting his business and made a prayer to the concerned Tribunal to pass an appropriate order permitting the petitioner to withdraw Rs.30,000/- out of Rs.50,000/- deposited with Union Bank of India, Himmatnagar. That application has been rejected by the Tribunal and against that rejection order the present revision application has been filed before this Court.

Learned counsel for the petitioner submitted that the amount of Rs.50,000/- has already been deposited by the respondent in Union Bank of India, Himmatnagar pursuant to the aforesaid judgment and award passed by the Tribunal. He further submitted that the petitioner is in acute need of certain amount and the Tribunal Court has erred in not permitting the petitioner to withdraw the amount of Rs.30,000/- from Union Bank of India, Himmatnagar where the amount of Rs.50,000/- has already been deposited, as aforesaid.

The respondent has already been served with a notice. But no one has appeared on behalf of the respondent to controvert the assertions made by the petitioner in the memo of the revision application. It appears that the amount of Rs.50,000/- has already been deposited in the name of the petitioner with Union Bank of India, Himmatnagar pursuant to the judgment and award dated 17-10-1997 passed by the Motor Accident Claims Tribunal (A), Sabarkantha at Himmatnagar. in M.A.C. Petition 279/93. As the petitioner is in genuine need of certain amount, he can be permitted to withdraw the amount of Rs.30,000/- as required by him out of

Rs.50,000/- deposited in Union Bank of India by the respondent pursuant of the judgment and award dated 17-10-1997 passed in M.A.C. P. No.279/93 by the M.A C. Tribunal (A), Sabarkantha, at Himmatnagar.

Accordingly, this revision application is allowed and the petitioner is permitted to withdraw Rs.30,000/out of Rs.50,000/- already deposited by the respondent pursuant to the judgment and award referred to above. Rule is made absolute, with no order as to costs.

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/JVSatwara/